

Notice of Allowability

Application No.

10/706,327

Examiner

Henry M. Johnson, III

Applicant(s)

LENNOX ET AL.

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 09 September 2005.
2. ☒ The allowed claim(s) is/are 1-40 and 44-52.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 020904
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date herein.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas Engellenner on October 11, 2005.

The application has been amended as follows:

In claim 10, line 1 "of claim 1" has been deleted and -- of claim 4 -- has been inserted.

In claim 12, line 1 "of claim 1" has been deleted and -- of claim 4 -- has been inserted.

In claim 29, line 1 "of claim 20" has been deleted and -- of claim 23 -- has been inserted.

In claim 31, line 1 "of claim 20" has been deleted and -- of claim 23 -- has been inserted.

In claim 31, line 1 "the fluid inlet" has been deleted and -- a fluid inlet -- has been inserted.

As requested by the applicant, claims 3-19, 22-38, 44, 47-48 and 51-52 have been rejoined as the generic claim was allowed.

Reasons For Allowance

The prior art of record does not disclose or fairly suggest a body cooling device with a fluid circulation area with a fluid inlet for receiving cooling fluid under a positive pressure, said cooling fluid directly contacting a body area, and incorporating at least two sealing members, said sealing members forming a channel therebetween, said channel having a port for introduction or removal of a fluid. The fluid connection is key in that it may provide both sealing and fluid removal via aspiration. U.S. Patent 3,587,577 to Ivanovich et al. teaches a device for

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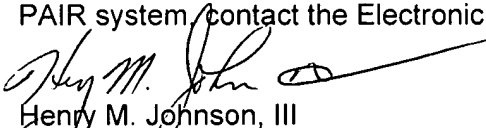
direct fluid cooling of tissue, but residual fluid is collected via gravity into a reservoir with no sealing of the treatment unit to the body. U.S. Patent 6,461,379 to Carson et al. teaches a body cooling apparatus with direct cooling of tissue via a fluid and a sealing means with up to three seals and channels between the seals, however, the channels have no means for connection to a fluid source.

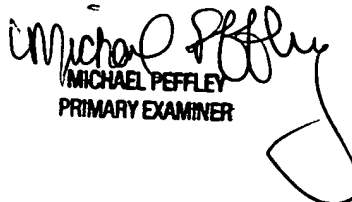
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M. Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 6:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Henry M. Johnson, III
Patent Examiner
Art Unit 3739


MICHAEL PEFFLEY
PRIMARY EXAMINER